

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

MDL No. 1456
Master File No. 1:01-CV-12257-PBS
Sub Docket No. 1:10-CV-11186-PBS

THIS DOCUMENT RELATES TO:
*United States ex rel. Ven-A-Care of the Florida
 Keys*
 v.
*Baxter Healthcare Corporation and Baxter
 International Inc.*

Judge Patti B. Saris

THE PARTIES' JOINT MOTION FOR ENTRY OF A SCHEDULING ORDER

Counsel for Defendants Baxter Healthcare Corporation and Baxter International Inc. and Counsel for Relator Ven-A-Care of the Florida Keys have conferred and have jointly agreed upon a proposed schedule for this case as set forth in the attached document. The parties have been engaging in settlement discussions with the assistance of mediator Eric Green, but have not yet reached a final agreement. At the request of the mediator and the Defendants, the Relator agrees to the requested extension in the interest of reaching resolution of this matter. The parties hereby request that the Court accept and adopt the proposed schedule to allow for additional time to arrive at final resolution of this matter.

Respectfully submitted,

Dated: March 7, 2011

/s/ Tina D. Reynolds

Merle M. DeLancey

Tina D. Reynolds

Admitted pro hac

DICKSTEIN SHAPIRO LLP

1825 Eye Street NW

Washington, DC 20006

Telephone: (202) 420-2200

Facsimile: (202) 420-2201

/s/ Peter E. Gelhaar

Peter E. Gelhaar (BBO #188310)

DONNELLY, CONROY & GELHAAR, LLP

One Beacon Street, 33rd Floor

Boston, MA 02108

Telephone: (617) 720-2880

Facsimile: (617) 720-3554

Counsel for Defendants, Baxter Healthcare
Corporation and Baxter International Inc.

/s/ Alison W. Simon

Alison W. Simon

P.O. Box 430457

Miami, FL 33243

Counsel for Plaintiff, Ven-A-Care of the Florida
Keys

CERTIFICATE OF SERVICE

I hereby certify that I, Tina Reynolds, an attorney, caused a true and correct copy of the foregoing **THE PARTIES' JOINT MOTION FOR ENTRY OF A SCHEDULING ORDER** to be delivered to all counsel of record by electronic service via LexisNexis File & Serve, on March 7, 2011, for posting and notification to all parties.

/s/ Shamir Patel
Shamir Patel
DICKSTEIN SHAPIRO LLP
1825 Eye Street NW
Washington, DC 20006
Telephone: (202) 420-2200

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

) MDL No. 1456
) Master File No. 1:01-CV-12257-PBS
) Sub Docket No. 1:10-CV-11186-PBS
)

THIS DOCUMENT RELATES TO:
United States ex rel. Ven-A-Care of the Florida
Keys
v.
Baxter Healthcare Corporation and Baxter
International Inc.

) Judge Patti B. Saris
)
)
)
)
)
)

[PROPOSED] SCHEDULING ORDER

March __, 2011

Saris, U.S.D.J.

WHEREAS, Relator Ven-A-Care of the Florida Keys (“Relator”) filed its original complaint on June 23, 1995, and an amended complaint on May 14, 2010 in the U.S. District Court for the Southern District of Florida;

WHEREAS, the amended Complaint was unsealed on May 28, 2010 and assigned Civil Action No. 1:10-cv-21745-ASG;

WHEREAS, the matter was transferred to the District of Massachusetts by the Judicial Panel for Multidistrict Litigation on July 15, 2010 and assigned Case No. 10-cv-11186-PBS;

WHEREAS, that case was consolidated with Case No. 01-cv-12257-PBS (MDL No. 1456) on July 16, 2010;

WHEREAS, counsel for the Relator and counsel for Defendants have for some time been discussing the possibility of a resolution of this matter without the need for further litigation;

WHEREAS, on February 23, 2011 the parties had a productive meeting with mediator Eric Green and whereas the parties believe that further negotiations with Professor Green may likely lead to resolution of this matter;

WHEREAS, pursuant to this Court's January 5, 2011 Scheduling Order the parties were to propose a joint schedule for motion to dismiss briefing by March 15, 2011;

WHEREAS, at the request of the mediator and the Defendants, the Relator agrees to the requested extension in the interest of reaching resolution of this matter;

WHEREAS, the parties hereby request relief from this deadline in order that they might continue to finalize resolution of this matter with Professor Green.

NOW THEREFORE, it is ORDERED, as follows:

1. Relator and Defendants shall continue to engage in informal mediation prior to June 24, 2011 in an attempt to resolve this matter;
2. All deadlines shall be stayed during the pendency of this mediation period;
3. Should mediation not be successful, the parties will, by no later than July 15, 2011, jointly propose a schedule to the court for motion to dismiss briefing.

So ordered.

Judge Patti B. Saris